

IN SENATE OF THE UNITED STATES.

FEBRUARY 3, 1846.

Submitted, and ordered to be printed.

Mr. BREESE made the following

REPORT :

[To accompany bill S. No. 48.]

*The Committee on the Judiciary, according to the order of the Senate, have had under consideration "a bill to amend the act entitled An act for the regulation of seamen on board the public and private vessels of the United States, passed March 3d, 1813," and respectfully ask leave to report :*

The bill before the committee provides for a repeal of the last clause of the twelfth section of the act for the regulation of seamen on board the public and private vessels of the United States, which section is in these words: "That no person who shall arrive in the United States from and after the time when this act shall take effect, shall be admitted to become a citizen of the United States, who shall not, for the continued term of five years next preceding his admission as aforesaid, have resided within the United States, *without being, at any time during the said five years, out of the territory of the United States.*"

The clause in italics is the one proposed to be repealed.

The hardship complained of by this law as it now reads is, that persons, other than seamen, <sup>and</sup> whose regulation and naturalization alone the law may well be supposed to have been enacted, have, by the courts of the country, adhering to the letter of the law, been deprived of certificates of citizenship, who had made their declarations of intention to become citizens of the United States in conformity with the general naturalization law, whose residence, business pursuits, and property are wholly within the United States; it being shown, on the final examination, that after the five years had commenced to run, and during their progress, they had been temporarily out of the territory and beyond the jurisdiction of the United States, sometimes with their own consent in pursuit of their business, at other times accidentally, in the course of voyages upon the northern lakes, where a divided jurisdiction obtains, the line and limit of which is imaginary only.

Cases are stated of persons engaged in large commercial operations, who, with their families, permanently reside in some of our large cities, after making their declarations of their *bona fide* intention to become citizens, are compelled to visit foreign countries, for purposes connected with their business, but immediately returning to their homes in the United States, who are unable, by reason of this temporary absence, to show, upon

the final examination, that they have been continually during the five years within our territory, and are thus refused their certificates of naturalization. Others, without their own consent, pass this imaginary line upon the lakes, and, with the vessel in which they are but passengers, touch the shore of a foreign country. They, too, are refused their certificates, and the time of actual *bona fide* residence is not counted in their favor, and a new term of probation has to be commenced and consummated.

All such persons could conscientiously depose that they have, at no time within the five years, been out of the territory of the United States with the intention of remaining out; that the *animus revertendi* always continued.

The committee think that the rigor of the law, if originally intended to apply to such persons, and not to seamen only, might, with propriety, be relaxed, leaving it to the courts to determine, upon each application for a certificate of naturalization, if the residence set up has been *bona fide*, with the intention of remaining, only interrupted by such and kindred circumstances to which the committee have referred.

To accomplish this, enough of the section will remain after the clause in question is repealed; for a momentary absence, to be judged of by all the circumstances attending it, may not be found inconsistent with a correct legal idea of a continued residence, as required.

The committee, therefore, report the bill without amendment, and recommend that it do pass.